

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:18-00233

DUSTIN AUSTIN

**ORDER GRANTING JUDGMENT OF ACQUITTAL**

This matter is before the Court on Defendant Dustin Austin's Motion for Judgment of Acquittal, made at the conclusion of the United States' case-in-chief at trial. The Federal Rules of Criminal Procedure require a court to "enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." Fed. R. Civ. P. 29(a). "The test for deciding a motion for a judgment of acquittal is whether there is substantial evidence (direct or circumstantial) which, taken in the light most favorable to the prosecution, would warrant a jury finding that the defendant was guilty beyond a reasonable doubt." *United States v. MacCloskey*, 682 F.2d 468, 473 (4th Cir. 1982). "[S]ubstantial evidence is evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." *United States v. Burgos*, 94 F.3d 849, 862 (4th Cir. 1996).

Here, Defendant was indicted for Possession with Intent to Distribute "50 grams or more of a mixture and substance containing a detectable amount of methamphetamine, . . . quantities of fentanyl, . . . and heroin," in violation of 18 U.S.C. § 841(a)(1). *See Superseding Indictment*, ECF No. 26. At trial, the United States failed to produce substantial evidence connecting the Defendant to the methamphetamine, heroin, and fentanyl discovered during the course of its

investigation. That is, the government presented no evidence that a reasonable finder of fact could accept as sufficient to support a finding of Defendant's guilt beyond a reasonable doubt.

For the reasons stated on the record and outlined herein, the Court **GRANTS** Defendant's Motion for Judgment of Acquittal.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel and the defendant, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service.

ENTER: September 9, 2019



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE